

URGENT

No. 62/49/2018-6GS1

From

The Chief Secretary to Government, Haryana.

To

1. All the Administrative Secretaries to Government Haryana.
2. All the Heads of Departments & Divisional Commissioners,
3. The Registrar, Punjab and Haryana High Court, Chandigarh.
4. All the Deputy Commissioners in the State of Haryana.
5. The Managing Directors/Chief Administrators of all the Boards/Corporations in the State of Haryana.
6. The Registrars of all the Universities in the State of Haryana.

Dated Chandigarh, the 28th November, 2018.

Subject:- LPA No. 2460 of 2017 and the other connected matters arising out of decision dated 3.10.2016 rendered by the Ld. Single Judge in CWP.No. 3922 of 2011 and connected writ petitions-regarding delay in filing further appeals in the Hon'ble High Court.

Sir/Madam,

I am directed to invite your attention to the subject noted above and to intimate that during the course of hearing on 29.01.2018 the Hon'ble Bench has observed that above said LPA has been filed after delay of 409 days which defeats the purpose of filing the LPA. The Hon'ble Bench has further noticed the CWP. No. 3922 of 2011 was disposed of alongwith other connected 51 writ petitions by Ld. Single Judge then why the department is not preferring LPA in all other connected cases? Taking a very serious view of the matter, the Hon'ble Bench has directed the State to take adequate precautions in filing the appeal in all the connected matters disposed of vide one single order. The operative part of order dated 29.01.2018 in above cited LPA is reproduced as under:

"Present intra-court appeal has been filed against the common judgment of learned Single Judge, whereby a bunch of 52 writ petitions were disposed of. The appeal is also accompanied by an application seeking condonation of 409 days in filing thereof.

There is no mention about the status of remaining 52 other cases, which were decided by the learned Single Judge along with the writ petition in question.

The application seeking condonation of delay is not forthcoming with any explanation about the action taken against the officers or officials who were at fault in not taking timely action for filing the appeal as a result of which delay of 409 days occurred in filing of the appeal.

There are several matters where intra-court appeals are being filed against the orders passed by the learned Single Judge disposing of bunch of petitions. Appeals are being filed by the State or other autonomous bodies but without mentioning the details of other cases which were disposed of together by the learned Single Judge.

The Registry is directed to ensure that in future whenever an appeal is filed by the State or any other Agency against a common judgement in a bunch of cases, the details of other cases namely as to whether any appeal has been filed in other cases or nor, and if filed, the status thereof, is mentioned by the applicants-appellants and without mentioning thereof no appeal shall be passed by the Registry."

2. The Hon'ble Bench while dismissing the said LPA on 31.07.2018 has observed that in various delayed appeals filed by the State of Haryana the time was consumed in movement of file from one desk to another and from one office to another seeking opinion about filing of appeal and sanction thereof. The delay in present LPA has not occurred on account of any circumstances beyond

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their control but is a result of slackness on their part. The officials responsible for filing LPA were irresponsible and casual. The appellants failed to satisfy the court that they had sufficient cause for not preferring the appeal within prescribed period. The operative part of order is reproduced below:

"Office has reported delay and laches of 409 days in filing the appeal. The explanation submitted in application under Section 5 of the Limitation Act is a usual as we have found in various delayed appeals filed by the State of Haryana that time was consumed in movement of file from one desk to another and from one office to another of the appellants seeking opinion about filing of appeal and sanction thereof.

It is well settled that a litigant, who is guilty of laches on account of not being vigilant to avail the remedy within the prescribed period of limitation, is not entitled to be extended the benefit of Section 5 of Limitation Act. A casual and irresponsible attitude disentitles the litigant to seek such a benefit.

In the case in hand, from the averments made in application under Section 5 and better affidavit, we find that the officials responsible for filing the LPA were irresponsible and casual. The delay has not occurred on account of any circumstances beyond their control but is a result of slackness on their part. The failed to act swiftly and appeal has been filed at their own leisure. Such an attitude disentitles the appellants from seeking the benefit of Section 5 of the Limitation Act.....

We are not inclined to condone the inordinate delay of 409 days in filing the appeal on the aforesaid irrelevant and vague explanation. The delay condonation application accordingly stands dismissed and as consequence appeal stands dismissed as barred by limitation."

3. The matter has been considered by the State Government. Accordingly, it is directed that in the event of filing of LPA against a common judgement in a bunch of cases, it may be ensured to mention therein that whether any appeal has been filed or not in the other/connected cases and if filed, status thereof. It is further directed to take adequate precautions in filing LPA within prescribed period of limitation positively. Unnecessary delay in movement of file should strictly be avoided as such delay is not condonable. Irresponsible attitude towards filing of appeal with delay on part of the officer/official should be viewed seriously and action be initiated against the delinquent/s.

4. You are, therefore, directed to ensure full compliance of these instructions in letter and spirit. These instructions may be brought to the notice of all concerned for strict compliance.

Yours faithfully,



Under Secretary General Administration,
for Chief Secretary to Government Haryana.